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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,382	06/16/2000	Sailesh Chittipeddi	79	2888
27964	7590	12/11/2003	EXAMINER	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			TSAI, H JEY	
			ART UNIT	PAPER NUMBER
			2812	

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/596,382

Applicant(s)

CHITTIPEDDI, SAILESH

Examiner

H.Jey Tsai

Art Unit

2812

-- *Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) 13-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

In view of the remarks filed on Sept. 22, 2003, the rejection of claims 1-2, 6-8 and 10-12 under 35 U.S.C. 102(e) as being anticipated by Sung et al. 6,346,454 is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 6-8 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "the first and second electrodes are each defined by an opening that extends through the stop layer and the layer".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(c) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2, 6-8 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hsieh 6,228,711, previously applied.

Hsieh discloses a method of forming an integrated circuit, which includes : forming a layer 326 having a stop layer 328, fig. 3J,

forming an opening in a layer 326 for dual damascene structure that includes groove and via extended through a stop layer 328 ,

forming openings in the layer 326 having a first and second electrodes 354, 358 for capacitor in the openings, figs. 3J.

Applicant's arguments filed Sept. 22, 2003 have been fully considered but they are not persuasive. Because Hsieh clearly teaches forming first and second electrodes of capacitor within the opening as set forth above. And, applicant's argument that first and second electrode are each defined by an opening is a new matter as set forth above. There is not seen in the specification as cited by the Applicant that first capacitor electrode is formed in one opening and second capacitor electrode is formed in another opening of the same layer. Instant invention merely teaches forming a capacitor formed in an opening.

Applicant contends that Hsieh teaches second electrode is formed in the opening of capacitor dielectric layer. This is not found to be persuasive because there is no opening formed in capacitor dielectric layer 350. The second electrode 352 is formed on the capacitor dielectric layer 350. And, capacitor dielectric layer 350 is defined by an opening that extend through the stop layer 328 and the layer. Since, second electrode 352 is formed on the capacitor dielectric layer 350, hence, second electrode layer 352 is also defined by the opening that extend through

the stop layer 328 and the layer. In addition, the comprising claims leaves the claims open for inclusion of more than one unspecified ingredients. see ex parte Davis et al. 80 USPQ 448.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry of a general nature or clerical matters or relating to the status of this application or proceeding should be directed to the Group customer service whose telephone number is (703) 306-3329 and Fax number (703) 306-5515. Group receptionist telephone number 703-308-0956.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. Jey Tsai whose telephone number is (703) 308-1374. The examiner can normally be reached on from 7:00 Am to 4:00 Pm., Monday thru Friday.

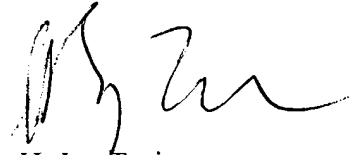
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (703) 308-3325. The fax phone number for this Group is (703) 308-7722.

hjt

11/28/03

A handwritten signature in black ink, appearing to read 'H. Jey Tsai', is positioned above the printed name.

H. Jey Tsai
Primary Examiner
Patent Examining Group 2800